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9 Facsimile: (619) 590-1385  
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11 Attorneys for Defendant AURORA LOAN SERVICES, LLC

12  
13 **UNITED STATES DISTRICT COURT**  
14  
15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 MARIA R. METCALF,

17 Plaintiff,

18 v.

19 DREXEL LENDING GROUP, a California  
20 corporation, OLD REPUBLIC TITLE  
21 COMPANY, a California corporation,  
22 AURORA LOAN SERVICES LLC, a  
23 California limited liability company  
24 MORTGAGE ELECTRONIC  
25 REGISTRATION SYSTEMS, INC., a  
26 Delaware corporation, and ROBERT E.  
27 WEISS INCORPORATION, a California  
28 Corporation,,

Defendants.

Case No. 3:08-cv-00731-W-POR

**EXHIBITS B, C, D, E, F, G, H AND I  
TO REQUEST FOR JUDICIAL NOTICE  
IN SUPPORT OF OPPOSITION TO EX  
PARTE APPLICATION**

**EXHIBIT B**

RECORDING REQUESTED BY

"LSI TITLE, FNDS DIVISION"

3107

DOC #

2007-0626655

13  
F 11  
28  
RECORDING REQUESTED BY  
ROBERT E. WEISS INCORPORATED

SEP 26, 2007 8:00 AM

OFFICIAL RECORDS

SAN DIEGO COUNTY RECORDER'S OFFICE

GREGORY J. SMITH, COUNTY RECORDER

FEES: 12.00

DA: 1

PAGES: 2

AND WHEN RECORDED MAIL TO  
ROBERT E. WEISS INCORPORATED  
920 S. VILLAGE OAKS DRIVE  
COVINA, CA 91724  
(626) 967-4302  
(626) 967-9216 (Fax)

m714522



2007-0626655

Trustee Sale No. 07-0500-CA Loan No. 0033798224 Title Order No.

## IMPORTANT NOTICE

## NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST

**IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION**, and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five business days prior to the date set for the sale of your property. No sale date may be set until three months from the date this notice of default may be recorded (which date of recordation appears on this notice).

This amount is \$18,168.64 as of 09-26-2007 and will increase until your account becomes current.

While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your note and deed of trust or mortgage. If you fail to make future payments on the loan, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the note and deed of trust or mortgage, the beneficiary or mortgagee may insist that you do so in order to reinstate your account in good standing. In addition, the beneficiary or mortgagee may require as a condition to reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

Upon your written request, the beneficiary or mortgagee will give you a written itemization of the entire amount you must pay. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay all amounts in default at the time payment is made. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in the above paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of property by paying the entire amount demanded by your creditor.

Trustee Sale No. 07-0500-CA Loan No. 0033798224 Title Order No.

To find out the amount you must pay, to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

**MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ACTING SOLELY AS NOMINEE FOR LENDER**  
C/O ROBERT E. WEISS INCORPORATED  
ATTN FORECLOSURE DEPARTMENT  
920 S. VILLAGE OAKS DRIVE  
COVINA, CA 91724  
(626) 967-4302

If you have any questions, you should contact a lawyer or the governmental agency which may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

**REMEMBER, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.**

**NOTICE IS HEREBY GIVEN THAT: ROBERT E. WEISS INCORPORATED** is the duly appointed Trustee, Substituted Trustee or Agent for the Beneficiary under a Deed of Trust dated 02-01-2007, executed by **MARIA R METCALF, A SINGLE WOMAN**, as trustor, to secure obligations in favor of **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ACTING SOLELY AS NOMINEE FOR LENDER**, as Beneficiary Recorded 02-13-2007, Book , Page , Instrument 2007-0101097 of official records, in the office of the Recorder of **SAN DIEGO** County, California, as more fully described on said Deed of Trust.

Including the note(s) for the sum of **\$9,000,000.00** that the beneficial interest under said Deed of Trust and the obligations secured thereby are presently held by the beneficiary; that a breach of, and default in, the obligations for which said Deed of Trust is security has occurred in that the payment has not been made of:

**FAILURE TO PAY MONTHLY PRINCIPAL AND INTEREST INSTALLMENTS DUE 06/01/2007 AND ALL SUBSEQUENT INSTALLMENTS TOGETHER WITH LATE CHARGES.**

That by reason thereof, the present beneficiary under such Deed of Trust, has executed and delivered to said Trustee, a written Declaration and Demand for Sale, and has deposited with said duly appointed Trustee, such Deed of Trust and all documents evidencing the obligations secured thereby, and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

**DATE: 09-24-2007**

**ROBERT E. WEISS INCORPORATED, AS TRUSTEE**

  
Cris A Klingerman, Esq. Attorney and Agent

ROBERT E. WEISS INCORPORATED IS A  
DEBT COLLECTOR ATTEMPTING TO  
COLLECT A DEBT. ANY INFORMATION  
OBTAINED WILL BE USED FOR THAT  
PURPOSE.

**EXHIBIT C**

RECORDING REQUESTED BY  
FIDELITY NATIONAL TITLE

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO  
ROBERT E. WEISS INCORPORATED  
920 VILLAGE OAKS DRIVE  
COVINA CA 91724

4204

DEC 28, 2007 8:00 AM

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
GREGORY J. SMITH, COUNTY RECORDER  
FEES: 10.00

PAGES: 2

Trustee's Sale # 07-0500-CA  
APN Number: 593-311-14-00

Space above this line for recorder's use only  
Loan No. 0033798224 Title Order # M714522

#### NOTICE OF TRUSTEE'S SALE

YOU ARE IN DEFAULT UNDER A DEED OF TRUST DATED 02-01-2007. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDINGS AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

On 01-18-2008 at 10:00 A.M., ROBERT E. WEISS INCORPORATED

as the duly appointed trustee under and pursuant to deed of trust recorded 02-13-2007, book , page , instrument 2007-0101097 of official records in the office of the recorder of SAN DIEGO county, California, executed by: MARIA R METCALF, A SINGLE WOMAN, as Trustor,

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ACTING SOLELY AS NOMINEE FOR LENDER, as Beneficiary,

WILL SELL AT PUBLIC AUCTION SALE TO THE HIGHEST BIDDER FOR CASH, cashier's check drawn by a state or national bank, a cashier's check drawn by a state or federal credit union, or a cashier's check drawn by a state or federal savings and loan association, savings association, or savings bank specified in section 5102 of the Financial Code and authorized to do business in this state.

place of sale: AT THE SOUTH ENTRANCE TO THE COUNTY COURTHOUSE, 220 WEST BROADWAY, SAN DIEGO, CA

all right, title and interest conveyed to and now held by it under said deed of trust in the property situated in said county, California describing the land therein:

AS MORE FULLY DESCRIBED ON SAID DEED OF TRUST

4205

Trustee's Sale # 07-0500-CA  
APN Number: 593-311-14-00

Loan No. 0033798224

Title Order # M714522

The property heretofore described is being sold "as is". The street address and other common designation, if any, of the real property described above is purported to be:

954 SURREY DRIVE, CHULA VISTA, CA 91902

The undersigned trustee disclaims any liability for any incorrectness of the street address and other common designation, if any, shown herein. Said sale will be will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal sum of the note(s) secured by the Deed of Trust, with interest thereon, as provided in said note(s), advances, if any, under the terms of the Deed of Trust, estimated fees, charges and expenses of the trustee and of the trusts created by said deed of trust, to wit:

amount of unpaid balance and other charges: \$951,659.35 (estimated)

Accrued interest and additional advances, if any, will increase this figure prior to sale

The beneficiary under said Deed of Trust heretofore executed and delivered to the undersigned a written Declaration of Default and Demand for Sale, and a Written Notice of Default and Election to Sell. The undersigned caused said Notice of Default and Election to Sell to be recorded in the county where the real property is located and more than three months have elapsed since such recordation.

DATE: December 20, 2007

ROBERT E. WEISS INCORPORATED, As Trustee  
ATTN: FORECLOSURE DEPARTMENT  
920 VILLAGE OAKS DRIVE  
COVINA CA 91724  
(626)967-4302

CRIS A KLINGERMAN, ESQ.

WE ARE ATTEMPTING TO COLLECT A DEBT, AND ANY INFORMATION WE OBTAIN  
WILL BE USED FOR THAT PURPOSE

**EXHIBIT D**

DOC # 2008-0102980

WHEN RECORDED MAIL TO:

AURORA LOAN SERVICES LLC  
C/O AURORA LOAN SERVICES, INC.  
601 FIFTH AVE  
SCOTTSBLUFF, NE 69361

MAIL TAX STATEMENTS TO

Same as above

Trustee Sale No. 07-0500-CA

Loan No. 0033798224

FEB 28, 2008 11:59 AM

OFFICIAL RECORDS

SAN DIEGO COUNTY RECORDER'S OFFICE

GREGORY J. SMITH, COUNTY RECORDER

FEES: 12.00

OC: NA

PAGES: 2

6148  
P6  
JP  
0WPA



Title Order No. M114522

## TRUSTEE'S DEED UPON SALE

APN 593-311-14-00

The undersigned grantor declares:

1)	The Grantee herein <u>was</u> the foreclosing beneficiary.	
2)	The amount of the unpaid debt together with costs was	\$964,896.55
3)	The amount paid by the grantee at the trustee sale was	\$875,000.00
4)	The documentary transfer tax is	\$NONE
5)	Said property is in the CITY of CHULA VISTA	

and ROBERT E. WEISS INCORPORATED (herein called Trustee), as the duly appointed Trustee or substituted Trustee under the Deed of Trust hereinafter described, does hereby grant and convey, but without covenant or warranty, express or implied, to AURORA LOAN SERVICES LLC (herein called Grantee), all of its right, title and interest in and to that certain property situated in the County of SAN DIEGO, State of California, described as follows:

LOT 198 OF RANCHO ROBINHOOD III, IN THE CITY OF CHULA VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 8604, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON JUNE 24, 1977.

Situs: 954 SURREY DRIVE, CHULA VISTA, CA 91902

### RECITALS:

This conveyance is made pursuant to the powers conferred upon Trustee by that certain Deed of Trust dated 02-01-2007 and executed by MARIA R METCALF, A SINGLE WOMAN, as Trustor, and Recorded 02-13-2007, Book , Page , Instrument 2007-0101097 of official records of SAN DIEGO County, California, and after fulfillment of the conditions specified in said Deed of Trust authorizing this conveyance.

Trustee Sale No. 07-0500-CA

Loan No. 0033798224

Title Order No. M714522

6149

Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the Office of the Recorder of said County.

All requirements of law regarding the mailing of copies of notices or the publication of a copy of the Notice of Default or the personal delivery of the copy of the Notice of Default and the posting and publication of copies of the Notice of a Sale have been complied with.

Said property was sold by said Trustee at public auction on 02-22-2008 at the place named in the Notice of Sale, in the county of SAN DIEGO California, in which the property is situated. Grantee, being the highest bidder at such sale, became the purchaser of said property and paid therefore to said trustee the amount bid being \$875,000.00 in lawful money of the United States, or by the satisfaction, pro tanto, of the obligation then secured by said Deed of Trust.

DATE: 02-22-2008

ROBERT E. WEISS INCORPORATED, As Trustee



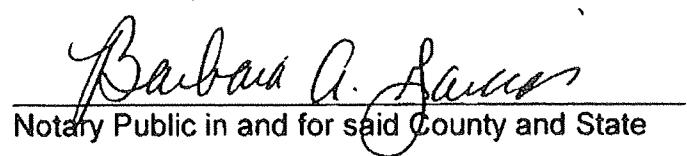
ROBERT E. WEISS, PRESIDENT

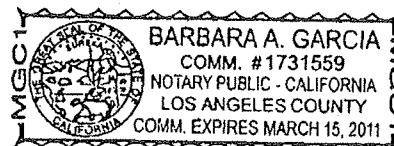
STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

On 02-22-2008 before me, Barbara A. Garcia the undersigned Notary Public in and for said county, personally appeared Robert E. Weiss, President, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

  
Notary Public in and for said County and State



**EXHIBIT E**

**THREE DAY NOTICE TO QUIT**  
(Cal. Code of Civ. Pro. § 1161a(b)(3))

**To: MARIA R. METCALF, A SINGLE WOMAN  
954 SURREY DRIVE, CHULA VISTA, CA 91902**

YOU ARE HEREBY NOTIFIED that the real property and improvements thereon commonly known as 954 Surrey Drive, Chula Vista, California 91902 ("the Property") have been sold to Aurora Loan Services LLC at a non-judicial foreclosure sale in accordance with Cal. Civ. Code §§ 2924 et seq. under the power of sale contained in that certain Deed of Trust executed by Maria R. Metcalf, a single woman, and recorded on February 13, 2007 as Instrument No. 2007-0101097 in the Office of the San Diego County Recorder. The new owner's title has been duly perfected by Trustee's Deed Upon Sale recorded in the Office of the San Diego County Recorder.

YOU ARE FURTHER NOTIFIED that your occupancy of the Property shall terminate effective THREE (3) CALENDAR DAYS after service of this Notice upon you.

WITHIN THREE (3) CALENDAR DAYS following service of this Notice, you must vacate and surrender possession of the Property to the undersigned, or legal proceedings will be immediately commenced to declare your occupancy forfeited, to obtain restitution and possession of the Property and to obtain a money judgment against you for damages and court costs.

Dated: March 19, 2008

FILE NO: 07-0500-CA  
LOAN NO: 0033798224

ROBERT E. WEISS INCORPORATED

By:

JAMES T. LEE

Attorneys for Property Owner  
Aurora Loan Services LLC

*Direct All Inquiries to:*

JAMES T. LEE  
State Bar No. 110838  
Law Offices of  
ROBERT E. WEISS INCORPORATED  
920 South Village Oaks Drive  
Covina, CA 91724  
Phone: (626) 967-4302  
FAX: (626) 339-7103

**EXHIBIT F**

Attorney of Party Without Attorney (Name and Address) Robert E. Weiss, Incorporated 920 Village Oaks Drive Covina				Telephone No: (626)967-4302	FOR COURT USE ONLY
Attorney For: PLAINTIFF				Reference Number: 379314 07-0500-CA	
Plaintiff/Petitioner: Aurora Loan Services, LLC Defendant/Respondent: vs. Maria R. Metcalf, et al.					
<b>PROOF OF SERVICE</b>		Hearing Date:	Time:	Dept./Div.:	Case Number: NOTICE

I, the undersigned declare that at the time of the service of the papers herein referred to, I was at least EIGHTEEN (18) years of age, and that I served the following notice:

Three Day Notice to Quit

On the following tenant(s): Maria R. Metcalf, A Single Woman

Address: 954 Surrey Drive  
Chula Vista, CA 91902

Date and Time of Posting: 3/18/2008 at 4:01pm.

BY POSTING a copy for each above-named tenant in a conspicuous place on the property therein described, there being no person of suitable age or discretion to be found at any known place of residence or business of said tenant(s) AND MAILING by first-class mail on saiddate a copy to each tenant by depositing said copies in the U.S. Mail in a sealed envelope with postage fully pre-paid, addressed to the above-named tenant(s) at the place where the property is situated.

7. Person Serving (name, address, and telephone No.):

**Attorney Service of San Dimas**  
142 East Bonita Avenue  
San Dimas, CA 91773  
(909)394-1202 Fax (909)394-1204

Fee for service: \$ \$50.00

Julie Ratliff

Registered California process server:

- (i) independent contractor
- (ii) Registration No.: 5659
- (iii) County: Los Angeles

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 4/2/2008



(Signature)

## EXHIBIT G

**SUMMONS**  
**(CITACION JUDICIAL)**  
**UNLAWFUL DETAINER—EVICTION**  
**(RETENCIÓN ILÍCITA DE UN INMUEBLE—DESALOJO)**

**NOTICE TO DEFENDANT:****(AVISO AL DEMANDADO):**

MARIA R. METCALF; and DOES 1 to 10, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:**  
**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

AURORA LOAN SERVICES LLC

You have 5 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays. If the last day falls on a Saturday, Sunday, or a court holiday then you have the next court day to file a written response.) A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

Tiene 5 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. (Para calcular los cinco días, cuente los sábados y los domingos pero no los otros días feriados de la corte. Si el último día cae en sábado o domingo, o en un día en que la corte esté cerrada, tiene hasta el próximo día de corte para presentar una respuesta por escrito). Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol](http://www.courtinfo.ca.gov/selfhelp/espanol)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol](http://www.courtinfo.ca.gov/selfhelp/espanol)) o poniéndose en contacto con la corte o el colegio de abogados locales.

1. The name and address of the court is:  
*(El nombre y dirección de la corte es):*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF SAN DIEGO  
 500 3RD AVE.

CHULA VISTA, CA 91910

SOUTH COUNTY REGIONAL CENTER

2. The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

*(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):*  
 EDWARD A. TREDER

(626) 967-4302

ROBERT E. WEISS INCORPORATED  
 920 SOUTH VILLAGE OAKS DRIVE  
 COVINA, CALIFORNIA 91724

3. *(Must be answered in all cases) An unlawful detainer assistant (Bus. & Prof. Code, §§ 6400-6415)  did not  did for compensation give advice or assistance with this form. (If plaintiff has received any help or advice for pay from an unlawful detainer assistant, complete item 6 on the next page.)*

Date: May 07, 2008  
*(Fecha)* **MAY 12 2008**

Clerk, by \_\_\_\_\_, Deputy \_\_\_\_\_  
*(Secretario)* \_\_\_\_\_, Deputy \_\_\_\_\_  
*(Adjunto)*

*(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)*

*(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).*

[SEAL]

4. **NOTICE TO THE PERSON SERVED:** You are served

- a.  as an individual defendant.
- b.  as the person sued under the fictitious name of (specify): \_\_\_\_\_
- c.  as an occupant
- d.  on behalf of (specify): \_\_\_\_\_

under:  CCP 416.10 (corporation)  
 CCP 416.20 (defunct corporation)  
 CCP 416.40 (association or partnership)  
 CCP 415.46 (occupant)

CCP 416.60 (minor)  
 CCP 416.70 (conservatee)  
 CCP 416.90 (authorized person)  
 other (specify): \_\_\_\_\_

5.  by personal delivery on (date): \_\_\_\_\_

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  EDWARD A. TREDER ROBERT E. WEISS INCORPORATED 920 SOUTH VILLAGE OAKS DRIVE COVINA, CA 91724 COVINA, CALIFORNIA 91724 TELEPHONE NO.: (626) 967-4302 FAX NO.: (626) 339-7103 ATTORNEY FOR (Name): PLAINTIFF		08 MAY 12 PM 2:23 FOR COURT USE ONLY CLERK-SAN DIEGO SAN DIEGO COUNTY, CA
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: COUNTY OF SAN DIEGO MAILING ADDRESS: 500 3RD AVE. CITY AND ZIP CODE: CHULA VISTA, CA 91910 BRANCH NAME: SOUTH COUNTY REGIONAL CENTER		
CASE NAME: AURORA LOAN SERVICES LLC v. METCALF, et al.		
<b>CIVIL CASE COVER SHEET</b> <input type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input checked="" type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		<b>Complex Case Designation</b> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		<b>CASE NUMBER:</b> 37-2008-00030978-CL-UD-SC <b>JUDGE:</b> <b>DEPT:</b>

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input checked="" type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	---	---

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a.  Large number of separately represented parties    d.  Large number of witnesses  
 b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve    e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court  
 c.  Substantial amount of documentary evidence    f.  Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive

4. Number of causes of action (specify): ONE

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 07, 2008

EDWARD A. TREDER

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGOAURORA LOAN SERVICES LLC

Case No. \_\_\_\_\_

vs.

## CERTIFICATE OF ASSIGNMENT

MARIA R. METCALF; and DOES 1 to 10,  
inclusive

A civil action or proceeding presented for filing must be accompanied by this certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the \_\_\_\_\_ District of the Superior Court under Rule 404 of this court for the checked reason:

 General Collection

## Nature of Action

## Ground

<input type="checkbox"/> 1 Adoption	Petitioner resides within the district.
<input type="checkbox"/> 2 Conservator	Petitioner or conservatee resides within the district.
<input type="checkbox"/> 3 Contract	Performance in the district is expressly provided for.
<input type="checkbox"/> 4 Equity	The cause of action arose within the district.
<input type="checkbox"/> 5 Eminent Domain	The property is located within the district.
<input type="checkbox"/> 6 Family Law	Plaintiff, defendant, petitioner or respondent resides within the district.
<input type="checkbox"/> 7 Guardianship	Petitioner or ward resides within the district or has property within the district.
<input type="checkbox"/> 8 Harassment	Plaintiff, defendant, petitioner or respondent resides within the district.
<input type="checkbox"/> 9 Mandate	The defendant functions wholly within the district.
<input type="checkbox"/> 10 Name Change	The petitioner resides within the district.
<input type="checkbox"/> 11 Personal Injury	The injury occurred within the district.
<input type="checkbox"/> 12 Personal Property	The property is located within the district.
<input type="checkbox"/> 13 Probate	Decedent resided or resides within the district or had property within the district.
<input type="checkbox"/> 14 Prohibition	The defendant functions wholly within the district.
<input type="checkbox"/> 15 Review	The defendant functions wholly within the district.
<input type="checkbox"/> 16 Title to Real Property	The property is located within the district.
<input type="checkbox"/> 17 Transferred Action	The lower court is located within the district.
<input checked="" type="checkbox"/> 18 Unlawful Detainer	The property is located within the district.
<input type="checkbox"/> 19 Domestic Violence	The petitioner, defendant, plaintiff or respondent resides within the district.
<input type="checkbox"/> 20 Other _____	
<input type="checkbox"/> 21 THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT.	

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designated district is:

954 SURREY DR.

ADDRESS

(NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR)

CHULA VISTA

(CITY)

CA

(STATE)

91902

(ZIP CODE)

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on

May 07, 2008

at COVINA

, California

Signature of Attorney/Party

EDWARD A. TREDER

NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT.

1. If you live here and you do not complete and submit this form within 10 days of the date of service shown on this form, you will be evicted without further hearing by the court along with the persons named in the Summons and Complaint.
2. If you file this form, your claim will be determined in the eviction action against the persons named in the Complaint.
3. If you do not file this form, you will be evicted without further hearing.

CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address):

TELEPHONE NO.:

FOR COURT USE ONLY

ATTORNEY FOR (Name):

**NAME OF COURT:** SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 STREET ADDRESS: COUNTY OF SAN DIEGO  
 MAILING ADDRESS: 500 3RD AVE.  
 CITY AND ZIP CODE: CHULA VISTA, CA 91910  
 BRANCH NAME: SOUTH COUNTY REGIONAL CENTER

PLAINTIFF: AURORA LOAN SERVICES LLC

DEFENDANT: MARIA R. METCALF; and DOES 1 to 10, inclusive

**PREJUDGMENT CLAIM OF RIGHT TO POSSESSION**

CASE NUMBER:

Complete this form only if ALL of these statements are true:

1. You are NOT named in the accompanying Summons and Complaint.
2. You occupied the premises on or before the date the unlawful detainer (eviction) Complaint was filed.
3. You still occupy the premises.

(To be completed by the process server)

DATE OF SERVICE:

(Date that this form is served or delivered, and posted, and mailed by the officer or process server)

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

1. My name is (specify):
2. I reside at (street address, unit No., city and ZIP code):
3. The address of "the premises" subject to this claim is (address):
4. On (insert date): [REDACTED], the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is the court filing date on the accompanying Summons and Complaint.)
5. I occupied the premises on the date the complaint was filed (the date in item 4). I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed (the date in item 4).
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in item 4).
8. I was not named in the Summons and Complaint.
9. I understand that if I make this claim of right to possession, I will be added as a defendant to the unlawful detainer (eviction) action.
10. (Filing fee) I understand that I must go to the court and pay a filing of \$ [REDACTED] or file with the court the form "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file with the court the form for waiver of court fees within 10 days from the date of service on this form (excluding court holidays), I will not be entitled to make a claim of right to possession.

(Continued on reverse)

## VERIFICATION

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I have read the foregoing UNLAWFUL DETAINER SUMMONS AND COMPLAINT

and know its contents.

 CHECK APPLICABLE PARAGRAPHS

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am  an Officer  a partner  a \_\_\_\_\_ of \_\_\_\_\_

party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.  I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.  The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for \_\_\_\_\_ a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on May 07, 2008, at COVINA, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EDWARD A. TREDER

Type or Print Name

Signature

## PROOF OF SERVICE

1013a (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of \_\_\_\_\_, State of California.  
I am over the age of 18 and not a party to the within action; my business address is: \_\_\_\_\_

On, \_\_\_\_\_ I served the foregoing document described as \_\_\_\_\_

on \_\_\_\_\_ in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

by placing  the original  a true copy thereof enclosed in sealed envelopes addressed as follows:

 BY MAIL

\*I deposited such envelope in the mail at \_\_\_\_\_, California.  
The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at \_\_\_\_\_ California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on \_\_\_\_\_, at \_\_\_\_\_, California.

\*\*(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on \_\_\_\_\_, at \_\_\_\_\_, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

\*(BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

\*\*(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

SEARCHED  
SERIALIZED  
INDEXED  
FILED  
MAY 21 2008  
CLERK'S OFFICE  
SAN DIEGO COUNTY  
COURT

80 MAY 21 2008 PM 2:33

1 EDWARD A. TREDER  
 2 State Bar No. 116307  
 3 Law Offices  
 4 ROBERT E. WEISS INCORPORATED  
 5 920 S. Village Oaks Drive  
 6 Covina, CA 91724  
 7 (626) 967-4302  
 8 [etreder@rewlaw.com](mailto:etreder@rewlaw.com)

9  
 10 Attorneys for Plaintiff

11  
 12  
 13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 14  
 15 COUNTY OF SAN DIEGO, SOUTH COUNTY REGIONAL CENTER

16  
 17 AURORA LOAN SERVICES LLC

18 Plaintiff,  
 19  
 20 vs.

21  
 22 MARIA R. METCALF; and DOES 1 to 10,  
 23 inclusive,

24  
 25 Defendants.

26  
 27 CASE **37-2008-00030978-CL-UD-SC**

28  
 29 COMPLAINT FOR UNLAWFUL DETAINER  
 30 (DEMAND UNDER \$10,000)

31  
 32 (Cal. Code of Civ. Pro. §§ 1161a(b)(3),(c))

33  
 34 Plaintiff alleges the following:

35  
 36 1. Plaintiff AURORA LOAN SERVICES LLC is the current owner of certain real  
 37 property and improvements thereon commonly known as 954 Surrey Drive, Chula Vista, California  
 38 91902 following a non-judicial foreclosure sale held in accordance with California Civil Code §§ 2924  
 39 et seq. Plaintiff's title was duly perfected by Trustee's Deed Upon Sale recorded on February 28, 2008  
 40 as Instrument No. 2008-0102980 in the Office of the San Diego County Recorder, a true and correct  
 41 copy of which is attached hereto as Exhibit "1" and incorporated herein by this reference.

1       2.     Defendant MARIA R. METCALF is the current occupant of the real property and was  
 2 the original trustor under the foreclosed deed of trust or the successor-in-interest to such original trustor  
 3 and the last vested owner of record as of the foreclosure sale date.  
 4

5       3.     The true names and capacities, whether individual, corporate, associate or otherwise of  
 6 defendants named herein as DOES 1 through 10, and of each of them, are unknown to plaintiff who  
 7 therefore sues said defendants by their fictitious names as allowed by California Code of Civil Procedure  
 8 § 474. Plaintiff asks leave of the court to amend its complaint to include the true names and capacities of  
 9 said defendants when the same have been ascertained.  
 10

11      4.     Plaintiff is informed and believes and based thereon alleges that each defendant sued  
 12 herein as DOE 1 through 10, inclusive, claims a possessory interest in the real property hereafter  
 13 described as a tenant or successor-in-interest to the former owner.  
 14

15      5.     On March 18, 2008, Defendant MARIA R. METCALF was duly served in the manner  
 16 prescribed by Cal. Code of Civ. Pro. § 1162 with written notice demanding that she surrender possession  
 17 of the real property to plaintiff not later than three days following service of said written notice. True  
 18 and correct copies of said written notice with corresponding proof of service are attached hereto as  
 19 Exhibits "2" and "3," respectively, and incorporated herein by this reference.  
 20

21      6.     That same date, Defendants DOE 1 through DOE 10 were duly served in the manner  
 22 prescribed Cal. Code of Civ. Pro. § 1162 with written notice demanding that they surrender possession  
 23 of the real property to plaintiff no later than thirty days following service of said written notice. True  
 24 and correct copies of said written notice with corresponding proofs of service are attached hereto as  
 25 Exhibit "4" and "5" and incorporated herein by this reference  
 26  
 27  
 28

1       7. More than three/thirty days have elapsed since the service of said written notices, but  
 2 defendants have failed and refused to surrender possession of said real property and continue to occupy  
 3 the real property without plaintiff's authorization or consent.

4  
 5       8. The fair and reasonable rental value of the real property is \$50.00 per day. Plaintiff is  
 6 entitled to recover a money judgment against defendants for their continued occupancy of the real  
 7 property at this daily rate from and after expiration of the notice to quit through the date of judgment.

8  
 9       9. Plaintiff is entitled to restitution and possession of the real property from defendants  
 10 named herein pursuant to California Code of Civil Procedure §§ 1161a(b)(3) and/or 1161a(c) and  
 11 therefore requests a judgment enforceable by any authorized law enforcement agency.

12  
 13       WHEREFORE, plaintiff prays judgment as follows:

14  
 15       1. For judgment awarding plaintiff restitution and possession of the real property;  
 16       2. For monetary damages according to proof;  
 17       3. For costs of suit incurred herein.  
 18       4. For such other and further relief as the court deems proper.

19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28

Law Offices  
 ROBERT E. WEISS INCORPORATED  
 920 VILLAGE OAKS DRIVE  
 COVINA, CA 91724  
 TELEPHONE (626) 967-4302 - FAX (626) 967-9216

Date: May 7, 2008

ROBERT E. WEISS INCORPORATED

By:

EDWARD A. TREDER, Attorneys for Plaintiff

**EXHIBIT H**

1 Maria R. Metcalf  
 2 954 Surrey Drive  
 3 Chula Vista, CA 91902  
 4 Phone (619) 399-1066

FILED

08 MAY 15 PM 12:23

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

5 IN THE UNITED STATES DISTRICT COURT  
 6 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

8 MARIA R. METCALF, )  
 9 Plaintiff, )  
 10 v. )  
 11 AURORA LOAN SERVICES LLC, )  
 12 A California limited liability )  
 13 Company )  
 14 Defendant. )

CIVIL ACTION NO.

'08 CV 0872 WWH RBB

PETITION FOR REMOVAL

15 The Petition of Plaintiff MARIA R. METCALF, respectfully shows the following:

16 COMES NOW the Plaintiff, MARIA R. METCALF, and petitions this Honorable Court  
 17 for removal of an action to the United States District Court on the following grounds:

1.

20 Plaintiff filed an action under the Federal Truth in Lending Act.

2.

23 Subsequent to the filing of the above suit, Defendant filed A Complaint for Unlawful

25 Detainer in the Superior Court of the State of California, Case No. 37-2008-00030978-CL-UD-

26  
27  
28 SC.

**EXHIBIT I**

**NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT.**

1. If you live here and you do not complete and submit this form within 10 days of the date of service shown on this form, you will be evicted without further hearing by the court along with the persons named in the Summons and Complaint.
2. If you file this form, your claim will be determined in the eviction action against the persons named in the Complaint.
3. If you do not file this form, you will be evicted without further hearing.

CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address):

TELEPHONE NO.:

FOR COURT USE ONLY

DENNIS RANDALL GRAY.  
954 SURREY DR.  
BONITA, CA 91902.

ATTORNEY FOR (Name):

NAME OF COURT: SUPERIOR COURT OF THE STATE OF CALIFORNIA

STREET ADDRESS: COUNTY OF SAN DIEGO

MAILING ADDRESS: 500 3RD AVE.

CITY AND ZIP CODE: CHULA VISTA, CA 91910

BRANCH NAME: SOUTH COUNTY REGIONAL CENTER

PLAINTIFF: AURORA LOAN SERVICES LLC

DEFENDANT: MARIA R. METCALF; and DOES 1 to 10, inclusive

**PREJUDGMENT CLAIM OF RIGHT TO POSSESSION**

CASE NUMBER:

37-2008-00030978-CL-UD-SC

(To be completed by the process server)

DATE OF SERVICE:

(Date that this form is served or delivered, and posted, and mailed by the officer or process server)

Complete this form only if ALL of these statements are true:

1. You are NOT named in the accompanying Summons and Complaint.
2. You occupied the premises on or before the date the unlawful detainer (eviction) Complaint was filed.
3. You still occupy the premises.

**I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:**

1. My name is (specify): DENNIS R. GRAY.
2. I reside at (street address, unit No., city and ZIP code):  
954 SURREY DR.  
BONITA, CA 91902.
3. The address of "the premises" subject to this claim is (address):  
954 SURREY DR.  
BONITA, CA 91902.
4. On (insert date): [redacted], the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is the court filing date on the accompanying Summons and Complaint.)
5. I occupied the premises on the date the complaint was filed (the date in Item 4). I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed (the date in Item 4).
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in Item 4).
8. I was not named in the Summons and Complaint.
9. I understand that if I make this claim of right to possession, I will be added as a defendant to the unlawful detainer (eviction) action.
10. (Filing fee) I understand that I must go to the court and pay a filing of \$ [redacted] or file with the court the form "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file with the court the form for waiver of court fees within 10 days from the date of service on this form (excluding court holidays), I will not be entitled to make a claim of right to possession.

(Continued on reverse)

PLAINTIFF (Name): AURORA LOAN SERVICES LLC

CASE NUMBER:

DEFENDANT (Name): MARIA R. METCALF; and DOES 1 to 10,  
inclusive

**NOTICE: If you fail to file this claim, you will be evicted without further hearing.**

11. (Response required within five days after you file this form) I understand that I will have five days (excluding court holidays) to file a response to the Summons and Complaint after I file this Prejudgment Claim of Right to Possession form.

12. Rental agreement. I have (check all that apply):

- a. an oral rental agreement with the landlord.
- b. a written rental agreement with the landlord.
- c. an oral rental agreement with a person other than the landlord.
- d. a written rental agreement with a person other than the landlord.
- e. other (explain):

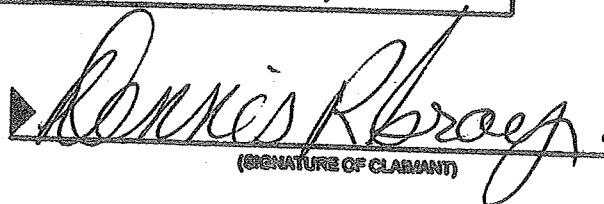
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

**WARNING: Perjury is a felony punishable by imprisonment in the state prison.**

Date:

5/16/08

(TYPE OR PRINT NAME)



(SIGNATURE OF CLAIMANT)

**NOTICE: If you file this claim of right to possession, the unlawful detainer (eviction) action against you will be determined at trial. At trial, you may be found liable for rent, costs, and, in some cases, treble damages.**

**- NOTICE TO OCCUPANTS -**

**YOU MUST ACT AT ONCE** If all the following are true:

1. You are NOT named in the accompanying Summons and Complaint.
2. You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed. (The date is the court filing date on the accompanying Summons and Complaint.)
3. You still occupy the premises.

*(Where to file this form)* You can complete and **SUBMIT THIS CLAIM FORM WITHIN 10 DAYS** from the date of service (on the reverse of this form) at the court where the unlawful detainer (eviction) complaint was filed.

*(What will happen if you do not file this form)* If you do not complete and submit this form (and pay a filing fee or file the form for proceeding in forma pauperis if you cannot pay the fee), **YOU WILL BE EVICTED**.

After this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right to occupy the premises will be decided by the court. *If you do not file this claim, you will be evicted without a hearing.*

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address):  Dennis Gray 954 Surrey Drive Bonita, California state, [91902]		TELEPHONE NO: 619-399-1066	UD-105 FOR COURT USE ONLY
ATTORNEY FOR (Name):  NAME OF COURT: SUPERIOR COURT OF CALIFORNIA, SAN DIEGO STREET ADDRESS: 500 THIRD AVENUE MAILING ADDRESS: CITY AND ZIP CODE: CHULA VISTA, CA 91910 BRANCH NAME: SOUTH BAY			
PLAINTIFF: AURORA LOAN SERVICES, LLC  DEFENDANT: MARIA METCALF		CASE NUMBER: 37-2008-00030978-CL-UD-	
ANSWER—Unlawful Detainer			

## 1. Defendant (names):

Dennis Gray

answers the complaint as follows:

## 2. Check ONLY ONE of the next two boxes:

a.  Defendant generally denies each statement of the complaint. (Do not check this box if the complaint demands more than \$1,000.)b.  Defendant admits that all of the statements of the complaint are true EXCEPT

(1) Defendant claims the following statements of the complaint are false (use paragraph numbers from the complaint or explain):

 Continued on Attachment 2b (1).

(2) Defendant has no information or belief that the following statements of the complaint are true, so defendant denies them (use paragraph numbers from the complaint or explain):

 Continued on Attachment 2b (2).

## 3. AFFIRMATIVE DEFENSES (NOTE: For each box checked, you must state brief facts to support it in the space provided at the top of page two (item 3j)).

a.  (nonpayment of rent only) Plaintiff has breached the warranty to provide habitable premises.b.  (nonpayment of rent only) Defendant made needed repairs and properly deducted the cost from the rent, and plaintiff did not give proper credit.c.  (nonpayment of rent only) On (date): before the notice to pay or quit expired, defendant offered the rent due but plaintiff would not accept it.d.  Plaintiff waived, changed, or canceled the notice to quit.e.  Plaintiff served defendant with the notice to quit or filed the complaint to retaliate against defendant.f.  By serving defendant with the notice to quit or filing the complaint, plaintiff is arbitrarily discriminating against the defendant in violation of the Constitution or laws of the United States or California.g.  Plaintiff's demand for possession violates the local rent control or eviction control ordinance of (city or county, title of ordinance, and date of passage):

(Also, briefly state the facts showing violation of the ordinance in item 3j.)

h.  Plaintiff accepted rent from defendant to cover a period of time after the date the notice to quit expired.i.  Other affirmative defenses are stated in item 3j.

PLAINTIFF (Name): AURORA LOAN SERVICES, LLC	CASE NUMBER: 37-2008-00030978-CL-UD
DEFENDANT (Name): MARIA METCALF	

## 3. AFFIRMATIVE DEFENSES (cont'd)

j. Facts supporting affirmative defenses checked above (identify each item separately by its letter from page one):

*See attached*

(1)  All the facts are stated in Attachment 3j.

(2)  Facts are continued in Attachment 3j.

## 4. OTHER STATEMENTS

a.  Defendant vacated the premises on (date):

b.  The fair rental value of the premises alleged in the complaint is excessive (explain):

Unless it for combined Tenants

c.  Other (specify):

## 5. DEFENDANT REQUESTS

a. that plaintiff take nothing requested in the complaint.

b. costs incurred in this proceeding.

c.  reasonable attorney fees.

d.  that plaintiff be ordered to (1) make repairs and correct the conditions that constitute a breach of the warranty to provide habitable premises and (2) reduce the monthly rent to a reasonable rental value until the conditions are corrected.

e.  Other (specify):

6.  Number of pages attached (specify):

## UNLAWFUL DETAINER ASSISTANT (Business and Professions Code sections 6400- 6415)

7. (Must be completed in all cases) An unlawful detainer assistant  did not  did for compensation give advice or assistance with this form. (If defendant has received any help or advice for pay from an unlawful detainer assistant, state:

a. Assistant's name:

b. Telephone No.:

c. Street address, city, and ZIP:

d. County of registration:

e. Registration No.:

f. Expires on (date):

(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT OR ATTORNEY)

(Each defendant for whom this answer is filed must be named in item 1 and must sign this answer unless his or her attorney signs.)

## VERIFICATION

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the defendant in this proceeding and have read this answer. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Date:

Dennis Gray

(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT)

*Dennis Gray 5/28/08*

Attachment for answer 3. J

The "AFFIRMATIVE DEFENSES" of Maria Metcalf should be used here as well.

**AFFIRMATIVE DEFENSES (Of Maria Metcalf)**

Further answering, Defendant pleads the following affirmative defenses:

1. As her first affirmative defense Defendant would affirmatively state that Defendant has filed a Petition for Removal of this cause to Federal Court. Attached hereto and made a part hereof as Defendant's Exhibit "A" is a copy of the Petition for Removal of this case. As this case is within the jurisdiction of the federal court, this Court should remove this matter to federal court and refrain from any further decisions regarding this matter.
2. As her second affirmative defense Defendant would affirmatively state that she is seeking rescission of the subject transaction that directly led to the filing of this unlawful detainer action. Should the transaction be rescinded the parties would and should be returned to the positions they occupied prior to the subject transaction.
3. As her third affirmative defense Defendant would plead the defense of illegality. Plaintiff violated the provisions of federal law in the subject transaction and should not be allowed to benefit from its own illegality.
4. As her fourth affirmative defense Defendant would plead the defense of unclean hands, that this Plaintiff does not enter into these proceedings with clean hands and should not be allowed to benefit from its own wrongful acts.

**EXHIBIT J**

W  
on Demand

1 Maria R. Metcalf  
 2 954 Surrey Drive  
 3 Chula Vista, CA 91902  
 4 Phone (619) 399-1066

2008 JUN 12 PM 4:22

SAN DIEGO COUNTY, CA

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 7 COUNTY OF SAN DIEGO, SOUTH COUNTY REGIONAL CENTER

9  
 10 MARIA R. METCALF, )  
 11 v. Plaintiff, ) Case No. 37-2008-00030978-CL-UD-SC  
 12 AURORA LOAN SERVICES LLC, ) DATE: JUNE 20<sup>th</sup>, 2008  
 13 a California limited liability ) TIME 9:30 AM DEPT: # 2  
 14 Company ) MOTION TO STAY OR ALTERNATIVELY  
 15 Defendant. ) TO DISMISS UNLAWFUL DETAINER  
 16 COMPLAINT

17  
 18 Defendant, MARIA R. METCALF, moves this Honorable Court to  
 19 Stay or alternatively to dismiss the Complaint for Unlawful  
 20 Detainer, and as grounds therefore would state as follows:

21 1. This action was filed on or about May 7, 2008.  
 22 2. At the time of the filing of the Complaint, there was  
 23 presently pending in the United States Bankruptcy Court  
 24 a Chapter 13 Bankruptcy regarding this Defendant and  
 25 concerning the subject property located at 954 Surrey  
 26 Drive, Chula Vista, CA 91902. Attached hereto as  
 27  
 28

1                   Defendant's Exhibit A is a copy of cover sheet in Case  
2                   No. 08-00323-13 filed January 18, 2008 at 09:44:01 a.m.  
3  
4                   3. The Claim of Plaintiff Aurora Loan Services was filed as  
5                   an adversary proceeding, Case NO. 08-90041-PB. Attached  
6                   hereto as Defendant's Exhibit B is a copy of a pleading  
7                   from the clerk of the Bankruptcy Court filed May 13,  
8                   2008, entitled Notice of Intent to Dismiss Adversary  
9                   Proceeding Without Prejudice for Want of Prosecution  
10                  showing that the adversary proceeding is still active in  
11                  the United States Bankruptcy Court.  
12  
13                  4. Due to the automatic stay provision, this case should  
14                  never have been filed in the state court and Aurora  
15                  Loan Services LLC should have proceeded with the  
16                  adversary proceeding in U.S. Bankruptcy Court, which is  
17                  the proper forum for this dispute in regard to the relief  
18                  Aurora Loan Services LLC. is seeking.  
19  
20                  WHEREFORE Defendant requests entry of an Order from this  
21                  Court staying this cause pending resolution of the case  
22                  in U.S. Bankruptcy Court or alternatively dismissing this  
23                  case and directing Plaintiff Aurora Loan Services to  
24                  proceed with its adversary proceeding in Bankruptcy Court  
25                  with all costs and fees assessed against Plaintiff, and  
26                  that the Court grant such other and further relief as the  
27                  Court deems equitable, appropriate and just.  
28

1 VERIFICATION  
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7

The undersigned hereby verifies under penalty of perjury  
that she has read the foregoing Motion to Stay or  
alternatively to dismiss and that the facts and  
allegations contained therein are true and correct.

10   
11 Maria R. Metcalf, Pro Se  
12 954 Surrey Drive  
13 Chula Vista, CA 91902  
14 Phone (619) 399-1066  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Removal to the United States District Court has been furnished to Edward A. Treder, Attorney for Plaintiff at Law Offices Robert E. Weiss Incorporated 920 S. Village Oaks Drive, Covina, CA 91724 this 15<sup>th</sup> day of May, 2008 via Fax at (626) 967-9216, (626) 339-7103 and By USPS Certified Mail Return Receipt Requested.

Maria R. Metcalf  
Maria R. Metcalf, Pro Se